

Hodges, Keith

From: Hodges, Keith [REDACTED]
Sent: Thursday, December 01, 2005 6:32 PM
To: [REDACTED]

Subject: Decision of the Presiding Officer - Scheduling of a Jan 2006 Session in al Bahlul

1. The Presiding Officer has personally and carefully considered the emails pasted below with respect to whether a session in the case of US v al Bahlul should be held the week of 9 Jan 06.
2. The charges against Mr. Al Bahlul were referred to a military commission for trial on 28 June 2004. As of today, there is no judge advocate who is willing to stand up and say, "I represent Mr. Al Bahlul." A review of the PO 102 filings series will reveal the problems involved in determining Mr. Al Bahlul's representation and counsel rights.
3. The Presiding Officer, based on his years of experience as a judge advocate, believes that having experienced trial lawyers such as MAJ Fleener present instruction to military attorneys who are or will become trial advocates is important. On balance however, the needs to resolve important issues with respect to Mr. al Bahlul, to include his representation which has been pending for over one year, outweighs the need to have a specific judge advocate present the class or classes in trial advocacy. There is only one person detailed to represent Mr. al Bahlul, but there are many judge advocates who can present quality instruction in trial advocacy generally and voir dire specifically.
4. Presuming that MAJ Fleener's statement in his email of 4:25 PM of today (pasted below) that he is scheduled to teach at the AF JAG school was a request for delay, the Presiding Officer has denied the request. The session scheduled for the week of 9 Jan 2006 at GTMO shall be held, and MAJ Fleener will be present at it.

BY ORDER OF THE PRESIDING OFFICER

Keith Hodges
Assistant to the Presiding Officers
Military Commission
[REDACTED]

From: Fleener, Tom, MAJ DoD GC [REDACTED]
Sent: Thursday, December 01, 2005 4:25 PM
To: 'Hodges, Keith'; Davis, Morris, COL, DoD OGC; Swann, Robert, Mr, DoD OGC; Sullivan, Dwight, COL, DoD OGC; [REDACTED] Fleener, Tom, LTCOL, DoD OGC; [REDACTED] Harvey, [REDACTED]
Cc: [REDACTED] Harvey, [REDACTED] Mr, DoD OGC
Subject: RE: US v. al Bahlul - Jan 2006 Session

I am scheduled to teach at the Air Force JAG School that week

PO 103 (al Bahlul)
Page 1 of 2

12/1/2005

Tom Fleener

From: Hodges, Keith [REDACTED]
Sent: Thursday, December 01, 2005 4:22 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: US v. al Bahlul - Jan 2006 Session

To all counsel in US v. al Bahlul

The Presiding Officer intends to hold the initial restart session in this case during the week of 9 Jan 2006. The specific date(s) will be provided later. This session will cover counsel rights and representation, and all counsel will be prepared to conduct voir dire of the Presiding Officer and discuss motions, schedules and dates, and docketing of future sessions.

Any counsel who believes that s/he has a valid reason why the session can not or should not be held at the time indicated will respond immediately. This includes both personal and legal reasons.

BY DIRECTION OF THE PRESIDING OFFICER
Keith Hodges
Assistant to the Presiding Officers
Military Commission

[REDACTED]